

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JORGE GALINDO,

Petitioner,

vs.

ROB JEFFREYS,

Respondent.

**4:23CV3241**

**ORDER**

This matter is before the court on the parties' Joint Motion to Amend Scheduling Order. (Filing No. 36). For the reasons set forth below, the motion will be granted in part, denied in part.

[Rule 15 of the Federal Rules of Civil Procedure](#) governs motions to amend petitions in habeas proceedings. *See Mayle v. Felix*, 545 U.S. 644, 655 (2005) (stating that [Rule 15](#) is “made applicable to habeas proceedings by § 2242, Federal Rule of Civil Procedure 81(a)(2), and Habeas Corpus Rule 11”). Amendments are allowed one time as a matter of course if the amendment is filed within 21 days of service of a responsive pleading or a Rule 12 motion. [Fed. R. Civ. P. 15\(a\)\(1\)\(B\)](#). Moreover, an amended petition relates back to the date of the original petition when the claims in the original and amended petition arose out of the same “conduct, transaction, or occurrence,” [Fed. R. Civ. P. 15\(c\)\(1\)\(B\)](#); *see also Mayle*, 545 U.S. at 656, “such that they arise from the same core of operative facts.” *United States v. Hernandez*, 436 F.3d 851, 857 (8th Cir. 2006) (quoting *Mayle*, 545 U.S. at 650).

Under the liberal amendment policy of [Federal Rule of Civil Procedure 15\(a\)](#), a district court's denial of leave to amend pleadings is appropriate only in those limited circumstances in which undue delay, bad faith on the part of

the moving party [sic], futility of the amendment, or unfair prejudice to the non-moving party can be demonstrated.

*Roberson v. Hayti Police Dep't*, 241 F.3d 992, 995 (8th Cir. 2001) (citing *Foman v. Davis*, 371 U.S. 178, 182, (1962); *Sanders v. Clemco Indus.*, 823 F.2d 214, 216 (8th Cir. 1987)).

Here, Petitioner seeks to amend his Petition pursuant to Fed.R.Civ.P. 15(a)(1)(B). Respondent has not yet filed an answer in this case and does not oppose Petitioner's request. The court grants the Petitioner's Motion to Amend. However, the court will enter a new progression order once the Amended Petition is filed, rather than relating back to previously entered scheduling orders.

Accordingly,

IT IS ORDERED that the Joint Motion to Amend is granted in part, denied in part, as set forth below.

1. Petitioner has until July 28, 2025 to file his Amended Petition.
2. The current progression order and the dates and deadlines set forth in Filings No. 14 and Filing No. 23, are hereby suspended. The court will issue an amended progression order after Petitioner's Amended Complaint is filed. The Clerk of the Court is directed to terminate any prior case management deadlines.
3. The Clerk of the Court is further directed to set a case management deadline in this case using the following text: July 28, 2025: check for Amended Petition.

Dated this 13th day of June, 2025.

BY THE COURT:

s/ Ryan C. Carson  
United States Magistrate Judge